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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/809,138

03/25/2004

Paul Jeffrey Garnett

5681-88700

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03/26/2009

MHKKG/SUN

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AUSTIN, TX 78767

EXAMINER

EASTMAN, AARON ROBERT

ART UNIT

PAPER NUMBER

3745

MAIL DATE

DELIVERY MODE

03/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/809,138 | Applicant(s) GARNETT, PAUL JEFFREY | |
| | Examiner Aaron R. Eastman | Art Unit 3745 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9,11,12,15-25 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,11,12,15-25 and 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-6, 8, 9, 11, 12, 15-25 and 29-35 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claims 2-6, 8, 9, 11, 12 and 15-25 are objected to because of the following informalities: In each instance "Claim" should read --claim--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8, 9, 11, 12, 15-25 and 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,000,079 (Mardis hereinafter) in view of USP 3,392,874 (Peebles hereinafter).

5. In re claim 1 Mardis discloses an apparatus, comprising:

a fan housing (housing of 26);

a grill (34) mounted on a surface of the fan housing, the grill comprising: a substantially planar portion.

6. Mardis does not disclose a handle extending out of the substantially planar portion so as to extend away from the surface of the fan housing when the grill is

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mounted thereon;

wherein the grill is configured to be stacked with substantially similar grills when apart from the fan housing;

wherein the substantially planar portion of the grill comprises an opening configured to receive a handle of a substantially similar grill when two or more substantially similar grills are stacked, apart from their respective fan housings, such that the substantially planar portions of the stacked grills are substantially parallel when the grills are stacked; wherein the opening is substantially coplanar with the substantially planar portion.

7. Peebles teaches a handle (17) extending out of a substantially planar portion (13) so as to extend away from the surface of an apparatus (Fig. 1);

wherein the apparatus is configured to be stacked with substantially similar apparatus (Fig. 1);

wherein the substantially planar portion (13) of the apparatus comprises an opening (15) configured to receive a handle (17) of a substantially similar apparatus when two or more substantially similar apparatus are stacked, such that the substantially planar portions (13) of the stacked apparatus are substantially parallel when the apparatus are stacked;

wherein the opening (15) is substantially coplanar with the substantially planar portion (13).

8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Mardis by forming a handle extending out of the substantially planar portion so as to extend away from the surface of the fan

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housing when the grill is mounted thereon;

wherein the grill is configured to be stacked with substantially similar grills when apart from the fan housing;

wherein the substantially planar portion of the grill comprises an opening configured to receive a handle of a substantially similar grill when two or more substantially similar grills are stacked, apart from their respective fan housings, such that the substantially planar portions of the stacked grills are substantially parallel when the grills are stacked;

wherein the opening is substantially coplanar with the substantially planar portion as taught in Peebles for the purposes of ease of transport (col. 1 [Background of the Invention and Summary] of Peebles).

9. In re claim 2 the Mardis modification in re claim 1 discloses the apparatus of claim 1, wherein said substantially planar portion comprises a plurality of apertures.

10. In re claim 3 the Mardis modification in re claim 1 discloses the apparatus of claim 2, wherein at least two of said plurality of apertures are arranged in a grid.

11. In re claim 4 the Mardis modification in re claim 1 discloses the apparatus of claim 1, wherein said substantially planar portion comprises at least one shaped wire arranged to form a loop or partial loop.

12. In re claim 5 the Mardis modification in re claim 1 discloses the apparatus of claim 4, wherein said substantially planar portion comprises a plurality of said loops or partial loops.

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13. In re claim 6 the Mardis modification in re claim 1 discloses the apparatus of claim 5, wherein said substantially planar portion comprises at least one strut, each strut attached to at least one of said loops or partial loops in at least one place.

14. In re claim 8 the Mardis modification in re claim 1 discloses the apparatus of claim 1, wherein the handle comprises a first piece of wire (col. 3 lines 14-20 discloses the handle being made of wire) extending in a loop or partial loop away from said substantially planar portion.

15. In re claim 9 the Mardis modification in re claim 1 discloses the claimed invention except for wherein the handle comprises at least one additional piece of wire, each additional piece of wire being shaped such that it is substantially parallel to said first piece of wire over the length of that additional piece of wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to create a handle comprising at least one additional piece of wire, each additional piece of wire being shaped such that it is substantially parallel to said first piece of wire over the length of that additional piece of wire, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper co. v. Bemis Co.*, 193 USPQ 8.

16. In re claim 11 the Mardis modification in re claim 1 discloses the apparatus of claim 1, further comprising one or more mounting formations (Fig. 3 of Mardis) for mounting the grill on the fan housing.

17. In re claim 12 the Mardis modification in re claim 1 discloses the apparatus of claim 11, wherein at least one of the mounting formations comprises shaped wire

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extending away from said substantially planar portion and arranged to form a loop or partial loop.

18. In re claim 15 the Mardis modification in re claim 1 discloses the apparatus of claim 6, further comprising at least one mounting formation for mounting the grill on the fan housing, and wherein at least one mounting formation and strut are integrally formed from a piece of shaped wire.

19. In re claim 16 the Mardis modification in re claim 1 discloses the claimed invention except for wherein the at least one mounting formation and strut and a portion of the handle are integrally formed from a piece of shaped wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the at least one mounting formation and strut and a portion of the handle so that they are integrally formed from a piece of shaped wire, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

20. In re claim 17 the Mardis modification in re claim 1 discloses the apparatus according to claim 1, wherein the grill comprises:
a section of wire shaped to form at least one loop or partial loop arranged in a common plane, including an outermost loop or partial loop;
a section of wire shaped to provide support for each loop or partial loop; a first section of wire shaped to form a handle portion of the handle; and at least one mounting formation (Fig. 3 of Mardis).

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21. In re claim 18 the Mardis modification in re claim 1 discloses the claimed invention except for wherein the section of wire forming the handle portion extends away from said common plane, and wherein either end of that section wire is attached to said outermost loop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the wire handle to the outermost loop, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1993).

22. In re claim 19 the Mardis modification in re claim 1 discloses the claimed invention except for wherein at least two mounting formations and the handle portion are formed from a common section of wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Mardis modification in re claim 1 by forming at least two mounting formations and the handle portion so that they are formed from a common section of wire, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1993).

23. In re claim 20 the Mardis modification in re claim 1 discloses the claimed invention except for wherein the handle comprises at least one additional piece of wire, each additional piece of wire being shaped such that it is substantially parallel to said first piece of wire over the length of that additional piece of wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

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create a handle comprising at least one additional piece of wire, each additional piece of wire being shaped such that it is substantially parallel to said first piece of wire over the length of that additional piece of wire, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper co. v. Bemis Co.*, 193 USPQ 8.

24. In re claim 21 the Mardis modification in re claim 1 discloses the claimed invention except for wherein the first section of wire and the additional sections of wire forming the handle portion are joined together with a weld or a brazing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the Schlosser et al. device by joining the first section of wire and the additional sections of wire forming the handle portion with a weld or a brazing, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

25. In re claim 22, the Mardis modification in re claim 1 discloses all of the limitations.

26. In re claim 23, the Mardis modification in re claim 1 discloses all of the limitations.

27. In re claim 24, the Mardis modification in re claim 1 discloses all of the limitations.

28. In re claim 25, the Mardis modification in re claim 1 discloses all of the limitations.

29. In re claim 29 the Mardis modification in re claim 1 discloses the claimed invention except for wherein each additional piece of wire is attached to the first piece of wire with at least one weld or brazing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the Mardis

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modification in re claim 1 by joining each additional piece of wire to the first piece of wire with at least one weld or brazing, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1993).

30. In re claim 30 the Mardis modification in re claim 1 discloses the claimed invention except for wherein the at least one mounting formation and a portion of the handle are integrally formed from a single piece of shaped wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the Mardis modification in re claim 1 so that the at least one mounting formation and a portion of the handle are integrally formed from a single piece of shaped wire, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1993).

31. In re claim 31, the Mardis modification in re claim 30 discloses all of the limitations.

32. In re claim 32 the Mardis modification in re claim 1 discloses the claimed invention except for wherein at least one strut and at least a portion of the handle are integrally formed from a single piece of shaped wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the Mardis modification in re claim 1 so that least one strut and at least a portion of the handle are integrally formed from a single piece of shaped wire, since it has been held that forming in one piece an article which has formerly been formed in two pieces and

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put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1993).

33. In re claim 33, the Mardis modification in re claim 32 discloses all of the limitations.

34. In re claim 34, the Mardis modification in re claim 1 discloses the apparatus of claim 1, wherein the handle comprises a partial loop; and wherein a plane of the partial loop of the handle is substantially perpendicular to a plane of the substantially planar portion of the grill.

35. In re claim 35, the Mardis modification in re claim 1 discloses the apparatus of claim 1, wherein the opening is configured to receive the handles of three or more substantially similar grills when stacked on top of the substantially similar grill such that the substantially planar portions of the stacked grills are substantially parallel when the grills are stacked.

Conclusion

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USP's 2575770, 2646186, 2821327, 2896835, RE25050, 3106332, 3587915, 3750936, 3991879, 4039119, 4621765, 5086917 and 6059109 as well as USPAP 2006/0157373 all disclose stackable items with nesting handles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron R. Eastman whose telephone number is (571)270-3132. The examiner can normally be reached on Mon-Thu 9:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron R. Eastman/
Examiner, Art Unit 3745

/Edward K. Look/
Supervisory Patent Examiner, Art Unit 3745